



State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

March 9, 2006

CERTIFIED RETURN RECEIPT
7004 2510 0004 1824 3571

Loy D. Crapo
350 East 300 South
PO Box 1113
Delta, Utah 84624

Subject: Termination and Reassessment, Cessation Order MC-06-04-01(1), Loy Crapo, Drum Slate #1 Mine, S/023/072, Juab County, Utah

Dear Mr. Crapo:

Enclosed please find the termination notice for Cessation Order MC-06-04-01. Because the reclamation liability for the site has been assumed by another entity and permitted under small mine notice #S/023/089, your abatement requirements have been eliminated. Even though the violation has now been terminated, you are still required to pay the penalty. Now that the Cessation Order has been terminated the assessment can be completed.

The proposed civil penalty assessment for the above referenced cessation order was sent to you on February 1, 2006. At that time the abatement had not been completed and some of the facts surrounding the violation were not available. In accordance with rule R647-7-105, the penalty is to be reassessed when it is necessary to consider facts, which were not reasonably available on the date of the issuance of the proposed assessment. Following is the reassessment of the penalty for the cessation order:

- MC-06-04-01 Violation 1 of 1 \$528

The enclosed worksheet specifically outlines how the violation was assessed. You should note that good faith points have now been awarded. If you are satisfied with this assessment, you should make payment to the Division of Oil, Gas & Mining.

Otherwise, under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the Cessation Order, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director or Associate Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the reassessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,



Daron R. Haddock
Assessment Officer

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

*** *An Operator is required to obtain a lease or right-of-entry prior to conducting mining operations. Approximately 1 acre has been disturbed at this location without having the appropriate approval. While the Operator has filed a small mine notice of intent he cannot conduct mining operations without having the right of entry. The Operator has created a one-acre disturbance, which includes a road segment, an open pit, and a small waste dump. Disturbance has actually occurred.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector stated that the operator has disturbed approximately 1 acre of land that had not been approved for disturbance. The damage was the creation of a 1-acre mining disturbance within an area that the operator did not have a lease. The site is considered to be reclaimable if the waste dumps are pulled back up into the pit and seeded. The damage is probably temporary. While much of the soil and vegetation have been disturbed, the site could still be reclaimed. While the damage is extensive over the 1 acre, it probably does not leave the site. Damage is assessed in the lower 1/3 of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? _____
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 28

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector indicated that the violation was the result of the Operator not taking reasonable care in securing right of entry to the property. The Operator was confused about the area that they had applied for and was actually mining in the wrong location. This indicates indifference to the rules or lack of reasonable care. A prudent operator would understand the need to keep within the approved boundaries and obtain the right of entry prior to disturbing an area. The Operator was negligent in this regard, thus the assignment of points in the middle part of the negligence range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20*

(Immediately following the issuance of the NOV)

- Rapid Compliance -1 to -10

(Permittee used diligence to abate the violation)

- Normal Compliance 0

(Operator complied within the abatement period required)

(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
- Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Difficult

ASSIGN GOOD FAITH POINTS -12

PROVIDE AN EXPLANATION OF POINTS:

*** *The Operator did immediately cease mining but had difficulty in acquiring the right of entry to this property because the claims were acquired by another entity. The abatement requirements were eliminated when the site was permitted and reclamation was assumed by the other entity. This all took place well within the abatement period. The abatement was required by April 4, 2006 and the site was actually permitted on February 13, 2006. I view this as rapid compliance for a difficult abatement. Thus the assignment of 12 good faith points.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # MC-06-04-01(1)

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>28</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-12</u>
	TOTAL ASSESSED POINTS	<u>24</u>

TOTAL ASSESSED FINE \$528



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DEPARTMENT OF NATURAL RESOURCES

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VACATION / TERMINATION of Notice of Violation / Cessation Order

To the following Permittee or Operator:

Name: Loy Crapo

Mailing Address: 350 East 300 South, P.O. Box 1113, Delta, Utah 84624

Mine Name: Drum Slate #1 Permit Number: S/023/072

Utah Mined Land Reclamation Act, Section 40-8-1 et. seq., *Utah Code Annotated (1953)*:

Notice of Violation No. _____ dated _____, 20__

Cessation Order No: MC-06-04-01(1) dated January 4, 2006__

Part 1 of 1 is ☐ vacated ☒ terminated because: The mine area in question has been permitted and bonded by Dale Rodgers, Small Mine Notice #S/023/089, therefore eliminating the need to bond or reclaim the site by Mr. Crapo.

Date of service/ mailing: March 9, 2006 Time of service/ mailing 4:00 ☐ a.m. ☒ p.m.

Loy Crapo
Permittee or Operator Representative

Title

Signature

Tom Munson
Division of Oil, Gas & Mining Representative

Reclamation Specialist III
Title

Tom Munson
Signature

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